

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARNELL QUENTIN BROCKINGTON,
Petitioner,

v.

THE STATE OF NEVADA DISTRICT
ATTORNEY, *et al.*,

Respondents.

Case No. 2:22-cv-00787-CDS-DJA

ORDER

Petitioner Darnell Quentin Brockington filed this petition for writ of habeas corpus under 28 U.S.C. § 2241, seeking emergency federal review related to his ongoing state criminal case and pretrial detention. ECF No. 1-1. This Court ordered Brockington to pay the filing fee, and he timely complied. ECF Nos. 3, 6. This matter comes before the court on initial review under the Rules Governing Section 2254 Cases (“Habeas Rules”). For the reasons discussed below, the Court finds that federal abstention is required, so the petition is dismissed without prejudice.

A. BACKGROUND¹

On April 7, 2022, in Clark County, Nevada, the State filed an Information charging Brockington with possession of a document or personal identifying information to establish false status or identity. His case, *State of Nevada v. Darnell Brockington*, Case No. C-22-363891-1, remains pending before the state district court.

In his petition for federal habeas relief, Brockington alleges: (1) law enforcement officers admitted in his pre-trial hearing that his identification was never used in any crime, but they

¹ The procedural history in this section is derived from the petitioner’s allegations as well as his criminal matters in the Eighth Judicial District Court for Clark County (“state district court”). This Court takes judicial notice of the online docket records of the state district court, which may be accessed by the public online at: <https://www.clarkcountycourts.us/portal>.

1 allege that it is illegal for him to have a “religious I.D. with [his] indigenous religious appellation
 2 on it,” and (2) “a moving violation is not grounds to seize private religious or intellectual
 3 property under copyright and trademark.” ECF No. 1-1 at 6. Brockington seeks to have “all
 4 unconstitutional charges be dismissed or that [he] be granted release until [his] trial.”² *Id.* at 7.

5 B. DISCUSSION

6 Habeas Rule 4 requires federal district courts to examine a habeas petition and order a
 7 response unless it “plainly appears” that the petitioner is not entitled to relief. This rule allows
 8 courts to screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably
 9 incredible, false, or plagued by procedural defects. *See Valdez v. Montgomery*, 918 F.3d 687, 693 (9th
 10 Cir. 2019); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases). Because a
 11 federal habeas petitioner incarcerated by a state must give state courts a fair opportunity to act
 12 on each of his claims before he presents them in a federal habeas petition, federal courts will not
 13 consider his petition for habeas relief until he has properly exhausted his available state
 14 remedies for all claims raised. *See Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998).

15 A claim remains unexhausted until the petitioner has given the highest available state
 16 court the opportunity to consider the claim through direct appeal or state collateral-review
 17 proceedings. *O’Sullivan v. Boerckel*, 526 U.S. 838, 844–45 (1999); *Peterson v. Lampert*, 319 F.3d 1153,
 18 1158 (9th Cir. 2003) (en banc). To properly exhaust state remedies on each claim, the habeas
 19 petitioner must “present the state courts with the same claim he urges upon the federal court.”
 20 *Picard v. Connor*, 404 U.S. 270, 276 (1971). The federal constitutional implications of a claim, not
 21 just issues of state law, must have been raised in the state court to achieve exhaustion. *Woods v.*
 22 *Sinclair*, 764 F.3d 1109, 1129 (9th Cir. 2014); *Castillo v. McFadden*, 399 F.3d 993, 999 (9th Cir.
 23 2005) (fair presentation requires both the operative facts and federal legal theory upon
 24 which a claim is based). A claim is not exhausted unless the petitioner has presented to the state
 25 court the same operative facts and legal theory upon which his federal claim is based. *Bland v.*
 26 *California Dep’t of Corrections*, 20 F.3d 1469, 1473 (9th Cir. 1994).

27
 28 ² Brockington alleges that he was incarcerated at the Clark County Detention Center at the time
 he filed his petition. ECF No. 1-1 at 1. However, using the Clark County Detention Center’s inmate search
 and the identification number provided by Brockington—7525810—it appears that he is no longer
 incarcerated at that facility.

1 Brockington has not alleged or demonstrated that he has fully exhausted his state court
2 remedies. Brockington alleges that he submitted evidence to the state justice court and the state
3 district court regarding his claims (*see* ECF No. 1-1 at 2), but there is no demonstration that
4 Brockington sought relief by a Nevada appellate court.³ *See, e.g., Arevalo v. Hennessy*, 882 F.3d 763,
5 764–67 (9th Cir. 2018) (finding that California petitioner properly exhausted his state remedies
6 by filing two motions in the trial court, a habeas petition in the court of appeal, and a habeas
7 petition in the state supreme court, each of which was denied).

8 But even if this Court assumes that Brockington has exhausted his claims, he seeks
9 federal judicial intervention in a pending state criminal proceeding, which is simply not
10 available to him. *Cf. e.g., Sherwood v. Tomkins*, 716 F.2d 632, 634 (9th Cir. 1983); *Carden v. Montana*,
11 626 F.2d 82, 83–85 (9th Cir. 1980). The comity-based *Younger* abstention doctrine prevents
12 federal courts from enjoining pending state court criminal proceedings, even if there is an
13 allegation of a constitutional violation, unless there is an extraordinary circumstance that
14 creates a threat of irreparable injury. *Younger v. Harris*, 401 U.S. 37, 53–54 (1971). The United
15 States Supreme Court has instructed that “federal-court abstention is *required*” when there is “a
16 parallel, pending state criminal proceeding.” *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 72 (2013)
17 (emphasis added); *Gilbertson v. Albright*, 381 F.3d 965 (9th Cir. 2004) (federal courts generally
18 abstain from granting any relief that would interfere with pending state judicial proceedings).
19 Injuries are only irreparable if the threat to a petitioner’s federally protected rights cannot be
20 eliminated through his defense of the criminal case. *Younger*, 401 U.S. at 46.

21 This case does not present extraordinary circumstances. The petitioner challenges law
22 enforcement regarding his arrest, charges, and pretrial detention. Defendants in state criminal
23 proceedings routinely allege that state criminal proceedings violate their constitutional rights,
24 including fundamental rights, which makes this a regular occurrence, not an extraordinary
25 circumstance. Brockington’s situation is no different in substance from that of any criminal
26 defendant facing the potential loss of constitutional rights—including the most fundamental
27 right, to liberty—in a pending criminal prosecution. In addition, Brockington’s pretrial motion
28

³ This Court takes judicial notice of the online docket records of the Nevada appellate courts, which may be accessed by the public online at: <https://caseinfo.nvsupremecourt.us>.

1 practice or defenses at trial may ameliorate any threat to his federally protected rights. He thus
2 faces no extraordinary or irreparable injuries, so federal abstention is required. Because the
3 charges against Brockington are still pending, dismissal of this action without prejudice will not
4 materially impact the analysis of any issue in a later-filed habeas proceeding or otherwise result
5 in substantial prejudice.

6 **C. CONCLUSION**

7 IT IS THEREFORE ORDERED that the Clerk of the Court is directed to file Petitioner
8 Darnell Quentin Brockington's petition for writ of habeas corpus [ECF No. 1-1].

9 IT IS FURTHER ORDERED that Petitioner Darnell Quentin Brockington's petition for
10 writ of habeas corpus [ECF No. 1-1] is **DISMISSED without prejudice**.

11 IT IS FURTHER ORDERED that a certificate of appealability is denied, as jurists of
12 reason would not find dismissal of the petition to be debatable or wrong.

13 IT IS FURTHER ORDERED that the Clerk of the Court is directed to informally
14 electronically service Respondents under Rule 4 of the Rules Governing Section 2254 Cases by
15 adding Nevada Attorney General Aaron D. Ford as counsel for respondents and sending a notice
16 of electronic filing to his office of the petition [ECF No. 1-1] and this order. No response is
17 required from Respondents other than to respond to any orders of a reviewing court.

18 IT IS FURTHER ORDERED that the Clerk of the Court is directed to enter final
19 judgment dismissing this action without prejudice and close this case.

20
21 DATED this 14th day of June 2022.

22
23 
24 _____
25 UNITED STATES DISTRICT JUDGE
26
27
28